

**SEWER USE ORDINANCE**

**CITY OF BURLINGTON**

Adopted by the Burlington City Council  
June 21, 1994

**Revised March 28, 1994**  
**Revised May 19, 1987**

**CITY OF BURLINGTON**  
**SEWER USE ORDINANCE**

**SECTION 1. GENERAL PROVISIONS:**

1.1 Purpose and Policy:

This Ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Burlington and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 (Public Law 95-217), the General Pretreatment Regulations promulgated by the U.S. Environmental Protection Agency (40 CFR, Part 403), Article 16 of North Carolina General Statute 160A concerning public enterprises, and Section .0900 of the North Carolina Department of Environment, Health, and Natural Resources regulations. The City's legal authority under this ordinance is derived from the above-referenced laws and regulations that are hereby incorporated into this Ordinance.

The objectives of this Ordinance are:

- (a) To prevent the introduction of pollutants into the municipality wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere, or otherwise be incompatible with the system;
- (c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
- (d) To protect both municipal personnel who may come into contact with sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
- (f) To ensure that the municipality complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws which the municipal wastewater system is subject to.

This Ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This Ordinance shall apply to the City of Burlington and to persons outside the City of Burlington who are, by contract or agreement with the City of Burlington, users of the City of Burlington's POTW. Discharge of wastewater into the municipal system by industrial or other users inside or outside the City limits constitutes an agreement to abide by the provisions of this Ordinance. Other governmental or private owners of sanitary sewer systems which ultimately discharge to the City's POTW shall be responsible, in accordance with any executed contracts or agreements, for enforcement of the provisions of this Ordinance including Pretreatment provisions for users of their sanitary sewer system. Failure to comply with the provisions of this Ordinance including enforcement provisions by such sanitary sewer system owners shall constitute a violation of this Ordinance and the City may take appropriate legal actions as required to ensure compliance and enforcement. Except as otherwise provided herein, the Manager or his designated representative of the City of Burlington shall administer, implement, and enforce the provisions of this Ordinance.

#### 1.2 Definitions:

A. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated:

(1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

(2) Approval Authority. The Director of the Division of Environmental Management of the North Carolina Department of Environment and Natural Resources or his designee.

(3) Authorized Representative of Industrial User. An authorized representative of an Industrial User may be:

(a) If the industrial user is a corporation: (i) A principal executive officer of the level of president, secretary, or vice-president of the corporation in charge of a principal business function, or another person who performs similar policy or decision-making functions for the corporation, or (ii) The manager of one or more manufacturing, production, or operation facilities if the authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (b) A general partner or proprietor if the industrial user is a partnership, association, or proprietorship, respectively or a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.
- (c) If the user is representing Federal, State, or local governments, or an agent thereof, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.
- (d) A designated authorized representative of any of the above if that authorization is in writing, the authorization specifies the individual or position responsible, that individual or position has responsibility for the facility operation or the environmental matters of the company, and the authorization is submitted to the City.

(4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 degrees centigrade expressed in terms of weight and concentration [milligrams per liter (mg/l)].

(5) Building Sewer. A sewer conveying wastewater from the premises of a User to the POTW.

(6) Bypass. The intentional diversion of wastestreams from any portion of a user's treatment facility.

(7) Categorical Standards. National Categorical Pretreatment Standards as defined by the U.S. EPA.

(8) City. The City of Burlington.

(9) Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(10) Control Authority. The term "control authority" shall refer to the City of Burlington based on the City's approved Pretreatment Program under the provisions of 40 CFR 403.11.

(11) Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the State of North Carolina.

(12) Director of Public Works and Utilities. The person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this article, or his duly authorized representative. Also referred to as POTW Director.

(13) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

(14) Grab Sample. A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(15) Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(16) Indirect Discharge. The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b), (c) or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(17) Industrial User. Any industrial user of the City's wastewater treatment system. Any person/entity which is a source of indirect discharge.

(18) Interference. The inhibition or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal which causes or contributes to a violation of any requirement of the POTW's NPDES or Non-discharge Permit. The term includes the prevention of sewage sludge use or disposal by the POTW in compliance with specified applicable State and Federal statutes, regulations, or permits under and in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. 6901, *et. seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(19) Manager. The City Manager, appointed by the City Council.

(20) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(21) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of Industrial Users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

(22) National Pollutant Discharge Elimination System or NPDES Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342), or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.

(23) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Any regulation developed under the authority of Section 307(b) of the Act and 40 CFR Section 403.5.

(24) New Source. (a) Any source, the construction of which is commenced after the publication of proposed Categorical Pretreatment Standards under Section 307(c) (33 U.S.C. 1317(c)) of the Act which will be applicable to such source, if such standard is thereafter promulgated in accordance with Section 307(c), provided that:

- (i) no other source is located at that site; or
- (ii) the source completely replaces the process or production equipment of an existing source at that site; or
- (iii) the new wastewater generating process of the source is substantially independent of an existing source at that site; and the construction of the source creates a new facility rather than modifying an existing source at the site.

(b) For the purposes of this definition, construction or operation has commenced if the owner or operator has:

(i) begun or caused to begin as part of a continuous on-site construction program:

(a) any placement, assembly, or installation of facilities or equipment; or

(b) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition, as stated in 40 CFR 403.3(K).

(25) Non-discharge Permit. A disposal system permit issued by the State pursuant to NCGS 143-215.1.

(26) Non-domestic Pollutants. Any substances other than human excrement and household gray water. Non-domestic pollutants include the characteristics of the wastewater (including but not limited to pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, and odor).

(27) Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or in combination with discharges from other sources, causes a violation of the POTW's NPDES or Non-discharge Permit or a downstream water quality standard.

(28) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, heirs, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(29) pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions.

(30) Pollutant. Any “waste” as defined in N.C.G.S. 143-213(18) and any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(31) Pollution. The man-made or man-induced alteration of the natural, physical, biological, chemical, and/or radiological integrity of water.

(32) Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of, discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 CFR Section 403.6(d) (dilution prohibited as a substitute for treatment).

(33) Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the City in compliance with 40 CFR 403.8 and approved by the Approval Authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.

(34) Pretreatment Standards and Requirements. Any substantive or procedural requirement related to pretreatment, including National Pretreatment Categorical Standards and prohibitive discharge standards imposed on an industrial user.

(35) Publicly Owned Treatment Works (POTW). A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Ordinance, “POTW” shall also include any sewers that convey wastewaters to the POTW from persons outside the City of Burlington who are, by contract or agreement with the City of Burlington, users of the City of Burlington’s POTW.

(36) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.

(37) Shall is mandatory; May is permissive.

(38) Significant Industrial User. Any Industrial User of the City's wastewater disposal system who (a) has a process wastewater discharge flow of 25,000 gallons or more per average work day, or (b) contributes more than five (5) percent of any design capacity of the City's wastewater treatment plant receiving the discharge, or (c) is required to meet a National Categorical Pretreatment Standard, or (d) is found by the City, the NCDWM or the U.S. EPA to have the reasonable potential for significant or adverse impact either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

(39) Significant Noncompliance. A status of noncompliance equivalent to reportable noncompliance as defined in 15A N.C.A.C. .0903(b)(10) and 40 CFR 403.8(f)(2)(vii). A status of noncompliance is defined as:

- (a) Violations of wastewater discharge limits.
- (b) Any other violation(s) of an effluent limit that the control authority believes has caused interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public.
- (c) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (d) Violations of compliance schedule milestones.
- (e) Failure to provide reports for compliance schedules, self-monitoring data, baseline monitoring reports, and other reports required for compliance.
- (f) Failure to accurately report noncompliance.
- (g) Any other violation or group of violations that the control authority considers to be significant.

(40) Slug Loadings. Any pollutant released in a discharge at a flow rate or concentration which will cause a violation of the specific discharge prohibitions in Section 2.1 of this Ordinance and is of non-routine, episodic nature including but not limited to an accidental spill or a non-customary batch discharge.

(41) State. State of North Carolina.

(42) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.



(43) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(44) Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(45) Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(46) Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(47) User. Any person, including other governmental, public, or private owners of sanitary sewer systems, who contributes, causes or permits the contribution of wastewater into the City's POTW, including contributions from mobile sources.

(48) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water which may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

(49) Wastewater Discharge (Contribution) Permit. As set forth in Section 4.3 of this Ordinance.

(50) Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

B. This Ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa. The use of the singular shall be construed to include the plural, and the plural shall include the singular.

### 1.3 Abbreviations.

The following abbreviations shall have the designated meanings:

BOD - Biochemical Oxygen Demand

<u>CFR</u>	- Code of Federal Regulations
<u>COD</u>	- Chemical Oxygen Demand
<u>EPA</u>	- Environmental Protection Agency
<u>gpd</u>	- Gallons per day
<u>l</u>	- Liter
<u>mg</u>	- Milligrams
<u>mg/l</u>	- Milligrams per liter
<u>NCGS</u>	- North Carolina General Statutes
<u>NH<sub>3</sub>-N</u>	- Ammonia-Nitrogen
<u>NPDES</u>	- National Pollutant Discharge Elimination System
<u>POTW</u>	- Publicly Owned Treatment Works
<u>SIC</u>	- Standard Industrial Classification
<u>SWDA</u>	- Solid Waste Disposal Act, 42 U.S.C. 6901, <u>et. seq.</u>
<u>TKN</u>	- Total Kjeldahl Nitrogen
<u>TSS</u>	- Total Suspended Solids
<u>USC</u>	- United States Code

## Section 2. REGULATIONS:

### 2.1 Discharge Prohibitions:

#### A. General Discharge Prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause Interference with the operation or performance of the POTW or cause Pass Through. These general prohibitions apply to all such Users of a POTW whether or not the User is a Significant Industrial User or subject to any National, State, or local Pretreatment Standards or Requirements.

#### B. Specific Discharge Prohibitions.

A user may not contribute the following substances to any POTW:

- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Included in this prohibition are wastestreams with a closed cup flashpoint of less than 140 degrees F (60 degrees C). At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene,

xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

- (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- (3) Any wastewater having a pH less than 6.0 or greater than 9.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- (4) Any wastewater containing toxic pollutants (including gases, vapors, or fumes) in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.
- (5) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

- (7) Any substance which will cause the POTW to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.
- (8) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetables tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
- (9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees C (104 degrees F).
- (10) Any pollutants, including oxygen-demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause Pass Through or Interference to the POTW is prohibited. The Federal regulations provide for an affirmative defense (40 CFR 403.5(a)(2)) for the User. The User must demonstrate that it did not know that the discharge alone or combined with other wastes would cause Pass Through or Interference. Furthermore, there must have been a local limit set for the pollutant causing Pass Through or Interference and that limit must have been met. If no local limit has been established, the User must demonstrate that its discharge did not change significantly from its prior discharge activity when the POTW was in compliance with its NPDES requirements.
- (11) Any wastewater containing radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the City of Burlington in compliance with applicable State or Federal regulations.
- (12) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (13) Any trucked or hauled wastes, except at discharge points and times designated by the POTW Director, consistent with 40 CFR 403.5(b)(8). Such wastes are subject to all restrictions of this ordinance, and pertinent POTW rules.
- (14) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate,

cooling water, and unpolluted industrial wastewater, unless specifically authorized by the POTW.

- (15) Any industrial waste containing floatable fats, waxes, grease, or oils, or which become floatable at the introduction to the wastewater plant. The City may require grease, oil, or sand interceptors (traps) and proper maintenance of the same.
- (16) Non-biodegradable cutting oils (soluble oils) which form a persistent water emulsion, and non-biodegradable complex carbon compounds.
- (17) Any sludges, screenings or other residue from the pretreatment of industrial wastes.
- (18) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater contribution permit.
- (19) Any material identified as hazardous waste according to 40 CFR Part 261 unless specifically authorized by the POTW Director.
- (20) Recognizable parts of the human or animal anatomy.
- (21) Wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

Wastes prohibited by this section shall not be processed or stored in such a manner that these wastes could be discharged to the municipal wastewater system. All floor drains located in the process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting to the system.

When the City of Burlington determines that a User(s) is contributing to the POTW, any of the above enumerated substances in such amounts as to contribute to or cause Interference with the operation of the POTW or Pass Through, the City of Burlington shall: (1) Advise the User(s) of the impact of the contribution on the POTW in accordance with Section 5; and (2) Take appropriate action to protect the POTW, and develop effluent limitation(s) for such User to correct the Interference or Pass Through with the POTW.

## 2.2 Pretreatment:

Users shall provide the necessary level of treatment to make wastewater acceptable under the limitations established herein before discharging into the City sewer. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be approved by the City before construction of the facility. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of this Ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the City prior to its initiation.

## 2.3 Federal Categorical Pretreatment Standards:

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein. The Federal Standard, if more stringent than limitations imposed under this Ordinance for sources in that sub-category, shall immediately supersede the limitations imposed under this Ordinance.

Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Contribution Permit of a User subject to such standards shall be revised to require compliance with such standard, incorporating the time frame prescribed by such standard. Where a user subject to a Categorical Standard has not previously submitted an application for a Wastewater Contribution Permit, the User shall apply for a Wastewater Contribution Permit within one hundred eighty (180) days after the promulgation of the applicable Categorical Standard.

## 2.4 Modification of Federal Categorical Pretreatment Standards:

Where the City's wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the City may apply to the Approval Authority for Modification of specific limits in the Federal Pretreatment Standards. "Consistent Removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system for 95 percent (95%) of the samples taken when measured according to the procedures set forth in 40 CFR 403.7(c)(2) – "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The City may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR 403.7, are fulfilled and prior approval from the Approval Authority is obtained.

## 2.5 Outside Enforcement of Pretreatment Provisions:

- A. It shall be the responsibility of all other governmental, public, or private owners of sanitary sewer systems which ultimately discharge into the City's POTW and have approved pretreatment programs to enforce all applicable portions of the Federal Industrial Pretreatment Regulations, N.C. General Statutes, and City of Burlington ordinances for industries having Indirect Discharges into their sanitary sewer systems. All discharge permits as required by this Ordinance shall be issued by such sanitary sewer system owners having an approved pretreatment program to industries in accordance with the requirements of this Ordinance. Monitoring requirements, including the installation of monitoring stations and equipment, shall be enforced by these system owners as provided for in this Ordinance, as required under the Federal Industrial Pretreatment regulations, or as directed in a State approved Industrial Pretreatment Program.
- B. All monitoring reports, baseline reports, compliance reports, etc. as required under the State and Federal Industrial Pretreatment Regulations shall be completed by the sanitary sewer system owner having an approved pretreatment program for those industries requiring such. Properly completed and executed reports shall be submitted to the City in duplicate. The schedule for submission of these reports shall be determined by the City. The City will be responsible for submitting these forms to the State as required.
- C. Enforcement actions of the provisions of this Ordinance and State and Federal Pretreatment Regulations shall be the responsibility of the sanitary sewer system owners who have an approved pretreatment program. In the event of non-enforcement by the owners, the City may deem the owner in violation of this Ordinance and may take the appropriate legal actions to ensure enforcement of the provisions of this Ordinance.

## 2.6 Industrial Waste Survey and Specific Pollutant Limitations:

An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following concentrations, as measured as a daily average discharge:

0.003 mg/l	Arsenic
0.003 mg/l	Cadmium
0.061 mg/l	Copper
0.017mg/l	Cyanide

0.049 mg/l	Lead
0.0003 mg/l	Mercury
0.021 mg/l	Nickel
0.005 mg/l	Silver
0.05 mg/l	Total Chromium
0.175 mg/l	Zinc
0.100 mg/l	Total identifiable chlorinated hydrocarbons
1.00 mg/l	Phenolic compounds which cannot be removed by the City's wastewater treatment process
100 mg/l	Oil or grease (mineral, petroleum, animal or vegetable origin)
150 mg/L	Total Suspended Solids (subject to Surcharge)
300 mg/L	Biochemical Oxygen Demand (subject to Surcharge)

Industrial Waste Survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and shall be considered pretreatment standards. The POTW Director may impose mass limits in addition to, or in place of, concentration-based limits.

When necessary, certain specific compounds or formulations may be banned from discharge into the City wastewater system. At present, one type of compound is banned. It is:

Tri-butyl tin oxides or hydrides – (biocides)

## 2.7 State Requirements:

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this Ordinance.

## 2.8 City's Right of Revision:

The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in Section 1.1 of this Ordinance, or the general and specific prohibitions in Section 2.1 of this Ordinance as allowed by 40 CFR 403.4.



2.9 Excessive Discharge/Dilution:

No User shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the City or State.

2.10 Bypass of Treatment:

Bypass of treatment facilities is prohibited except under the conditions outlined in 40 CFR 403.17. Prior approval of the bypass should be obtained from the City.

2.11 Upset Conditions:

The User shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternate method of treatment is provided (40 CFR 403.16).

2.12 Accidental Discharges:

Each User shall provide protection from accidental and/or slug load discharges of prohibited materials or other substances regulated by this Ordinance. Facilities to prevent accidental and/or slug load discharges of prohibited materials shall be provided and maintained at the owner or user's own cost and expense.

Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. Operating procedures shall include, but are not limited to, inspection and maintenance of storage areas, materials handling and transfer, loading and unloading operations, control of site runoff, and employee training. The plan shall describe discharge practices (including nonroutine batch discharges), describe stored chemicals, and shall contain procedures to notify the POTW immediately of accidental and/or slug load discharges and to prevent adverse impacts from any accidental spill. All existing Users shall complete such a plan before the permit renewal process is complete. No User who commences contribution to the POTW after the effective date of this Ordinance shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City of Burlington. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the User's facility, as necessary, to meet the requirements of this Ordinance.

In the case of an accidental discharge, it is the responsibility of the User to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions taken.

2.13 Written Notice:

Within five (5) days following an accidental discharge, the User shall submit to the City a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

2.14 Notice to Employees:

A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of an accidental or slug load discharge. Employers shall insure that all appropriate employees are advised of the emergency notification procedure.

2.15 Use of City Sanitary Sewer System:

All plumbing shall be connected to the City sanitary sewer system where available (Burlington Code of Ordinances, Section 14-49).

New residences, commercial establishments, and industrial users within the service area are required to connect to the sanitary sewer prior to the final plumbing inspection and issuance of the certificate of occupancy. Such connections are governed by the N.C. State Building Code and N.C. State Plumbing Code. Private sewage disposal systems are prohibited.

Existing residences, commercial establishments, and industrial users within the service area that operate with existing septic tanks or other disposal systems shall be governed by the rules and regulations of the State (N.C.G.S. Section 130A, Article 11) and the Alamance County Health Department. If inspection of such a facility determines that it is not in compliance with existing rules and regulations, the City, upon condemnation by the Health Department, shall require connection to the sanitary sewer.

The discharge of any septic tank effluent, cesspool overflow, or trucked waste into any open drain, ditch, stream, or well penetrating water-bearing formations is prohibited.

If there are areas under the City's jurisdiction that are not serviced by the publicly owned sanitary sewer, the City and the Health Department may issue a permit to construct a sewage disposal system under the existing City Code, the rules and regulations of the Health Department, and the State. Approval or rejection of such facilities would be in accordance with a standard set of plans and specifications.

#### 2.16 Storm Sewers:

The discharge of sanitary wastewater to the storm sewer system is prohibited. The discharge of uncontaminated cooling water and uncontaminated condensate into the storm sewer is allowed.

#### 2.17 Sampling and Analytical Requirements:

Sampling and analyses must be performed in accordance with procedures approved by EPA.

- A. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be collected using grab collection techniques. Samples for other parameters must be composited either by flow proportional or time proportional composite collection methods, depending on the feasibility of installing flow proportional equipment. Under special circumstances, the Director of Public Works and Utilities may authorize collection of a minimum of four (4) grab samples representative of the discharge as a form of composite sample.
- B. All pollutant analyses, submitted as part of the pretreatment application or compliance requirements shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard.

### SECTION 3. FEES:

#### 3.1 Purpose:

It is the purpose of this chapter to provide for the recovery of costs from Users of the City of Burlington wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth by the City's Schedule of Charges and Fees.

### 3.2 Charges and Fees:

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

- A. Basic User Fee: The basic user fee shall be determined from the costs of establishing, operating and maintaining the sewer system. Based on all costs of operation, maintenance, and debt service, the user fee shall be established and approved by the Burlington City Council, and included in the Schedule of Charges and Fees. This fee is subject to annual review. Each user shall pay its proportionate cost based on volume of flow.
- B. Industrial Surcharge: Any industrial user discharging wastes with pH, BOD, or Suspended Solids concentrations exceeding the waste treatment facilities design capability (pH 6-9), (BOD 300 mg/l), (TSS 150 mg/l), may be charged a surcharge in addition to the basic user fee. Other parameters may subsequently be identified as eligible for surcharge. Parameters shall be measured at a point following any pretreatment works acting on the wastes. The amount of surcharge will be based on a concentration and mass loading rate (pounds per day) discharged in excess of the limits stated above, and will be established in the City's Schedule of Charges and Fees. The surcharge shall be determined in accordance with applicable State and Federal Guidelines.

The volume of discharge used for the determination of loading rates for calculation of surcharges shall be based on one of the following:

1. Metered water consumption;
2. Other flow monitoring device that measures the actual volume of wastewater discharge (if water consumption is not metered). This device shall be installed and maintained at the user's expense with approval from the City.

The character and concentration of the wastewater used to determine surcharges shall be determined by the collection and analysis of samples representative of the actual discharge. Samples shall be collected and analyzed using procedures set forth in 40 CFR Part 136. The determination of the character and concentration of the discharge by the City or its duly appointed representative shall be binding as a basis for charges.

- C. Additional Fees: The City may assess fees necessary to carry out the requirements contained herein. These may include charges and fees for the cost of administering and implementing the Pretreatment Program. These may

include, but are not limited to, costs associated with monitoring, inspections, surveillance, permitting, and review of construction plans and accidental discharge procedures.

- D. Outside Corporate Limit User Fees: All sewer users located outside the corporate limits, except other governmental units with whom the City may enter into formal written contract, shall be required to pay, in addition to the basic user fee, additional fees calculated to defray the proportionate share of the outside corporate user's responsibility for the administrative and support expenses, debt service costs, depreciation recovery costs, and/or other service costs not otherwise directly paid for by the Water and Sewer Fund and as now assumed and paid by inside corporate users through the ad valorem tax levy and/or other charges.
- E. Nondiscrimination – Uniformity: All user fees shall be established by the City Council and shall be nondiscriminatorily and uniformly applied in accordance with the aforesaid sewer user classifications as hereinabove set forth.

#### SECTION 4. ADMINISTRATION:

##### 4.1 Right to Discharge:

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the City of Burlington or a duly authorized representative.

##### 4.2 Discharge Reports:

The City may require that any person discharging or proposing to discharge wastewater into a City sewer file a periodic Discharge Report. The Discharge Report may include, but not be limited to, nature or process, volume, average and maximum daily rates of flow, concentration of pollutants in the discharge, mass emission rate, production quantities, hours of operation, number and classification of employees, or other information which relates to the generation of waste including wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site even though they are not normally discharged. In addition to Discharge Reports, the City may require information in the form of Wastewater Discharge Permit applications and self-monitoring reports.

##### 4.3 Wastewater Discharge Permits:

- 4.3.1. Mandatory Permits: Each Significant Industrial User, if not connected to the City sewer, must apply for a Wastewater Discharge Permit

before connecting to or discharging into a City sewer. Existing Industrial Users, who are determined to be a Significant Industrial User by the POTW Director, shall obtain a Wastewater Discharge Permit within 180 days of notification of the Director's decision. Industrial Users who do not fit the Significant Industrial User criteria may, at the discretion of the POTW director, be required to obtain a wastewater contribution permit for non-significant industrial users.

4.3.2. Permit Application: Users seeking a Wastewater Discharge Permit shall complete and file with the City, an application in the form prescribed by the City. Any application fees will be established by the City Council and included in the Schedule of Charges and Fees.

A. The Applicant may be required to submit, in units and terms appropriate for evaluation, the following information.

- (1) Name, address, and SIC code(s) of applicant;
- (2) Volume of wastewater to be discharged;
- (3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in Section 2 as determined by a laboratory approved by the City. Included shall be analytical data on any priority pollutants (Section 307(a) of the Act) present or suspected present in the discharge. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;
- (4) Time and duration of discharge;
- (5) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials, processes and types of materials which are or could be accidentally or intentionally discharged;

- (8) The type and amount of raw materials processed, and each product produced by type, amount, process, and rate of production;
- (9) Number and type of employees, and hours of plant operation;
- (10) Any other information as may be deemed by the City to be necessary to evaluate the permit application. Every industrial user subject to a categorical standard must submit a Baseline Monitoring Report (BMR) as specifically set out in 40 CFR 403.12(b) or 15A N.C.A.C. 2H .0908(a);
- (11) Where known, the nature and concentration of any pollutants in the discharge which are limited by City, State, or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis. If pretreatment standards are not being met, a schedule of operation, maintenance, or pretreatment improvements, provided by the user, necessary to meet pretreatment standards on a consistent basis;

B. Certification and/or signatory requirements: As outlined in 40 CFR 403.12(b), (d), or (1), all discharge permit applications and user reports must be signed by the authorized representative of the user and contain the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The City will evaluate the data furnished by the user and may require additional information. After evaluation and approval of all the data required, the City may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

- 4.3.3 Application Review and Evaluation: The POTW Director is authorized to accept permit applications. Within thirty (30) days of receipt, the Director shall acknowledge the application, and begin the review process. If the application is incomplete, the Director will return the application with a statement of the additional information required.

Upon review of the application and a subsequent on-site inspection, a tentative decision to issue or deny the permit will be made. If the decision is made to issue a User permit, a draft will be prepared. The draft permit will contain the pertinent information submitted with the application, and the conditions imposed by the City on the discharger.

The draft permit must be reviewed by the State and the User within thirty (30) days. A synopsis of the application shall be prepared for submission to the applicant and the approval authority along with the draft permit.

If the draft permit is not accepted by the User, the User may initiate the hearing process through the City. Final action on the permit application should not extend beyond ninety (90) days unless the hearing process extends that time period.

- 4.3.4 Hearings: The permittee has the right to a hearing to address a permit denial, permit issued with objectionable conditions, and a penalty assessment. The steps to be followed are:
- (A) Initial Adjudicatory Hearing. An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under Section 6, or one issued an administrative order under Section 5 shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within thirty (30) days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the specified time, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within forty-five (45) days of the receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail.
  - (i) New Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of the judicial review or until the parties reach a mutual resolution.



- (ii) Renewed Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of the judicial review or until the parties reach a mutual resolution.
- (B) Final Appeal Hearing. Any decision of a hearing officer made as a result of an adjudicatory hearing held under Section 4.3.4.(A) above may be appealed, to the City Council upon filing a written demand within ten (10) days of receipt of notice of the decision. Hearings shall be conducted in accordance with the City Council's normal procedures for public hearings. Failure to make written demand for a hearing within the specified time shall bar further appeal. The Council shall make a final decision on the appeal within ninety (90) days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.
- (C) Official Record. When a final decision is issued under Section 4.3.4.(B) above, the City Council shall prepare an official record of the case that includes:
  - (i) All notices, motions, and other like pleadings;
  - (ii) A copy of all documentary evidence introduced;
  - (iii) A certified transcript of all testimony taken, if transcribed. If testimony is not transcribed, then a narrative summary of any testimony taken.
  - (iv) A copy of the final decision of the City Council.
- (D) Judicial Review. Any person against whom a final order or decision of the City Council is entered, pursuant to the hearing conducted under Section 4.3.4.(B) above may seek judicial review of the order or decision by filing a written petition within thirty (30) days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Alamance along with a copy to the City. Within thirty (30) days after receipt of the copy of the petition of judicial review, the City Council shall transmit to the reviewing court the original or a certified copy of the official record.

4.5.2 Permit Modifications. Permit modifications that require changes in the conditions of the permit or character of the permitted discharge will fall under the same requirements as an application for a new discharge.

Exceptions include:

- (A) changes in the ownership of the discharge when no other change in the permit is indicated;

- (B) a single modification of any compliance schedule not in excess of four (4) months; and
- (C) modification of compliance schedules in permits for new sources where the new source will not begin to operate until the control facilities are operational.

4.3.6. Permit Conditions: Wastewater Discharge Permits shall be expressly subject to all provisions of this Ordinance and all other ordinances, regulations, charges and fees established by the City, State, or Federal authority. The conditions of Wastewater Discharge Permits shall be uniformly enforced by the City in accordance with this Ordinance, and applicable State and Federal regulations.

A. Permits shall contain the following:

- (1) A statement of duration (in no case more than five years);
- (2) A statement of non-transferability;
- (3) Discharge limitations including the average and maximum wastewater constituents and characteristics, based on categorical standards, local limits or both;
- (4) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule;
- (5) Requirements for submission of compliance reports, technical reports, or discharge reports.
- (6) Requirements for maintaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto. Records must be retained for a minimum of five (5) years, or longer in the case of unresolved litigation or request of the Approval Authority;
- (7) Notification requirements for slug loads or accidental discharges;
- (8) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

B. Permits may contain the following:

- (1) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer;
- (2) Limits on rate and time of discharge or requirements for flow regulations and equalization;
- (3) Requirements for installation of inspection and sampling facilities;
- (4) Pretreatment requirements;
- (5) Requirements to develop a Schedule of Compliance, including interim dates and requirements, for the installation of technology required to meet a pretreatment standard, as indicated in 40 CFR 403.8(f)(1)(iv) and Section .0905 of the DENR regulations.

- (6) Mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants (as defined by Section 1.2) are proposed or present in the user's wastewater discharge.
- (7) Other conditions as deemed appropriate by the City to insure compliance with this Ordinance.

4.3.7. Duration of Permits: Wastewater Discharge Permits shall be issued for a specific time period, not to exceed five (5) years. A Permit may be issued for a period of less than five (5) years or may be stated to expire on a specific date. The terms and conditions of the Permit may be subject to modification by the City during the life of the Permit as limitations or requirements are modified. The user shall be informed of any proposed changes in his Permit not less than sixty (60) days prior to the effective date of change. Any changes or new conditions in the Permit shall include a reasonable time schedule for compliance. The user shall apply for permit renewal a minimum of one hundred and eighty (180) days prior to the expiration of the user's existing permit.

4.3.8. Prior Notice of Change of Permitted Condition: Any substantial change in discharge or a new discharge shall require notification to the POTW, and approval by the POTW for that change or new discharge prior to its initiation. The City retains authority to deny, approve, or conditionally approve a new or increased discharge. Such review and determination by the City shall be performed in accordance with permitting procedures outlined herein.

4.3.9. Transfer of a Permit: Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

### 3.4 Schedule of Compliance and Reporting Requirements:

Industrial Users may be found out of compliance with either City, State, or Federal Pretreatment regulations and be required to develop a Schedule of Compliance with specific progress milestone dates, compliance dates, and reporting requirements. Requirements to develop a Schedule of Compliance for the installation of technology required to meet a pretreatment standard, are outlined in 40 CFR 403.8(f)(1)(iv) and Section .0905 of the DENR regulations. Compliance progress reports for Schedule of Compliance milestone dates must conform to 40 CFR 403.12(c) and Section .0908(a) of DENR regulations. Industrial Users not yet permitted but required to submit compliance schedule progress reports under Federal regulations must also meet the requirements of 40 CFR 403.12(c) and Section .0908(a) of DENR regulations. Progress and compliance reports must be submitted within fourteen (14) days of any date in

the schedule and the final date of compliance. Enforcement of Schedule of Compliance requirements is included in Section 5 (Enforcement) of this Ordinance and the City's Pretreatment Enforcement Response Guide.

4.5 Baseline Monitoring Reports and Categorical Deadlines and Compliance Reports:

- A. Within either one hundred and eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the City a report containing the following:
- (1) Identifying information;
  - (2) A list of all environmental permits held by or for the facility;
  - (3) A description of operations including the nature, rate of production, and standard industrial classification(s) of the operations along with a diagram indicating the points of discharge to the POTW;
  - (4) Flow measurements for average and maximum daily flows in gallons per day;
  - (5) Measurements of pollutants including the categorical pretreatment standards for each regulated process, the sampling and analysis results identifying the nature, concentration and/or mass of each regulated pollutant in the discharge, and any instantaneous daily maximum and long term average concentration data available, as required. The sample shall be representative of normal daily operations, and analyzed in accordance with approved methods.
  - (6) A statement, reviewed by the User's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
  - (7) If additional pretreatment or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide the additional pretreatment or O&M shall be established. The completion date established in this schedule shall not be later than the compliance date established for the applicable

pretreatment standard. The schedule must meet the requirements set forth in Section 4.4 of this Ordinance.

- (8) All baseline monitoring reports must be signed and certified in accordance with Section 4.3.2.B of this Ordinance.

- B. At least ninety (90) days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the City a report containing the information listed in paragraphs A.1 – 8 immediately above. A new source shall report the method of pretreatment it intends to use to meet the applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- C. As required by 40 CFR 403.12(d) and Section .0908(a) of the DENR regulations, any Industrial User subject to a categorical standard must submit a report, within ninety (90) days after the final date for compliance (or following the commencement of discharge from a new source) which contains flow and pollutant measurements, and a certification of whether pretreatment standards are being met, and if not, a description of needed additional operation, maintenance, or pretreatment. This report must also contain a reasonable measure of the User's long-term production rate if mass or concentration limits were established under 40 CFR 403.6(c) or an actual measure of production for all other users subject to categorical pretreatment standards expressed as allowable pollutant discharge per unit production. Compliance reports must be signed and certified in accordance with Section 4.3.2.B of this Ordinance.
- D. Any User subject to categorical pretreatment standards must submit a report, at least twice per day, indicating the nature and concentration of pollutants in its discharge which are limited by a categorical standard. The report must also include a record of measured or estimated average and maximum daily flows. Reports must be signed and certified in accordance with Section 4.3.2.B of this Ordinance.
- E. If sampling by the Industrial user subject to a categorical standard indicates a violation, the User must notify the POTW within twenty-four (24) hours after becoming aware of the violation. The User must also resample and submit results of this resampling within thirty (30) days.

#### 4.6 User Notification of Violations:

Industrial users must report immediately (within 24 hours) any instance of noncompliance after first knowledge of the violation. If the noncompliance is caused by a regulated parameter exceeding the permit

limit, the user is responsible for resampling for that parameter and reporting the analytical results within thirty (30) days.

4.7 Discharge of Hazardous Wastes:

Any Industrial User must notify, in writing, the POTW, the State, and the EPA of any discharge which would be considered a hazardous waste under 40 CFR 261, if disposed of in a different manner. Information in the notification must conform to the requirements of 40 CFR Part 261. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences.

4.8 Monitoring Facilities:

Users who propose to discharge, or who in the judgment of the City could discharge now or in the future, wastewater with constituents and characteristics different from that produced by a domestic premise will be required to install a monitoring facility.

When more than one user can discharge into a common building sewer, the City may require installation of a separate monitoring facility for each user. Also when, in the judgment of the City, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the City may require that separate monitoring facilities be installed for each separate discharge.

Monitoring facilities that are required to be installed shall be constructed, operated and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewaters produced by a user. If sampling or metering equipment is also required by the City, it shall be provided, installed and operated at the user's expense. The monitoring facility will be required to be located on the user's premises. If the monitoring facility is inside the User's fence, there shall be accommodations to allow safe and immediate access for City personnel, such as a gate secured with a City lock. There shall be ample room in or near such facility to allow accurate sampling and compositing of samples for analysis. The entire facility and the sampling and measuring equipment shall be maintained at all times in safe and proper operating condition by and at the expense of the user.

The monitoring facilities shall be constructed in accordance with the City's requirements and all applicable local construction standards and specifications.

When, in the judgment of the City, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within ninety (90) days following written notification unless a time extension is otherwise granted by the City.

4.9 Inspection and Sampling:

Authority is hereby granted to the duly authorized City employees to enter upon all properties to make necessary inspections, tests and measurements to insure compliance with all the regulations of this Ordinance. This includes the authority to examine and/or copy records required to be retained. The City may inspect the facilities of any user to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or its representative ready access at all times to all parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The City, the Approval Authority, and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, Approval Authority, and EPA will be permitted to enter without delay for the purposes of performing their specific responsibilities.

4.10 Search Warrants:

If the POTW Director, Approval Authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City of Burlington designed to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the POTW Director, Approval Authority, or EPA may seek issuance of a search warrant from a Judicial Official of the Court (Magistrate, District, or Superior) of Alamance County.

4.11 Confidential Information:

All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or any other governmental

agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods which would be detrimental to the user's competitive position.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, Non-discharge permit, and/or Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the City as confidential, shall not be transmitted to the general public by the City until and unless prior and adequate notification is given to the user. Such records shall be made available to officials of the Approval Authority and EPA upon request.

#### 4.12 Special Agreements:

Special agreements and arrangements between the City and any persons or agencies may be established when in the opinion of the City unusual or extraordinary circumstances compel special terms and conditions. In no case will a special agreement allow a violation of Federal or State law, including local limits.

### SECTION 5. ENFORCEMENT:

#### 5.1 Notification of Violation:

Whenever the City finds that any user has violated or is violating this Ordinance, wastewater contribution permit, or any prohibition, limitation of requirements contained herein, the City may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the City by the user. Submission of this plan does not relieve the discharger of liability for any violation occurring before or after receipt of the Notice of Violation.

The City must annually publish a list of Industrial Users who were in Significant Noncompliance with applicable pretreatment regulations during the previous twelve (12) months. This notification will appear in the largest daily newspaper with general circulation in the municipality.



This provision is in compliance with 40 CFR 403.8(f)(2)(vii) and Section .0905 of the DENR regulations.

## 5.2 Consent Order

The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to Section 5.5, below.

## 5.3 Harmful Contributions:

The City may suspend the wastewater treatment service and/or a Wastewater Contribution Permit when such suspension is necessary, in the opinion of the City, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the City to violate any condition of its NPDES Permit.

Any person notified of a suspension of the wastewater treatment service and/or the Wastewater Contribution Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take such steps as deemed necessary including immediate severance of the water and/or sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The City shall reinstate the Wastewater Contribution Permit and/or the wastewater treatment service or water service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen (15) days of the date of occurrence.

## 5.4 Revocation of Permit:

Any user who violates the following conditions of this Ordinance, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of Section 5 of this Ordinance:

- (A) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- (B) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

- (C) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or
- (D) Violation of conditions of the permit.

5.5 Administrative Orders:

When the POTW Director finds that an industrial user has violated or continues to violate this Ordinance, permits or orders issued hereunder, or any other pretreatment requirement, the POTW Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (A) Immediately comply with all requirements;
- (B) Comply in accordance with a compliance time schedule set forth in the order;
- (C) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (D) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

5.6 Show Cause Hearing:

5.6.1. The City may order any user who causes or allows an unauthorized discharge, has violated this Ordinance, or is in noncompliance with a Wastewater Discharge Permit to show cause before the City Council why a proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under Section 6.1 nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under Section 4.3.4.

5.6.2. The City Council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the (assigned department) to:

- (A) Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (B) Take the evidence;
- (C) Transmit a report to the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.

5.6.3. At any hearing held pursuant to this Ordinance, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

5.6.4. After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

5.6.5. Any person against whom a final order or decision of the City Council is entered, pursuant to the hearing process, may seek judicial review of the order or decision by filing a written petition within thirty (30) days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Alamance County along with a copy to the City. Within thirty (30) days of receipt of a copy of the petition of judicial review, the City Council shall transmit to the reviewing court the original or a certified copy of the official record.

## 5.7 Legal Action:

If any person discharges sewage, industrial wastes or other wastes into the City's wastewater disposal system contrary to the provisions of this Ordinance, Federal or State Pretreatment Requirements, or any order of the City, the City Attorney may commence an action for appropriate legal and/or equitable relief in a Court of appropriate jurisdiction. This includes the right to seek a temporary restraining order or preliminary or permanent injunction to restrain or compel the activity in question. This authority also extends to non-discharge violations that result in noncompliance.

## SECTION 6. PENALTY, COSTS:

### 6.1 Civil Penalties:

Any user who is found to have violated an Order of the City Council or who failed to comply with any provision of this Ordinance, and/or the orders, rules, regulations and permits issued hereunder, may be assessed a Civil Penalty of not less than Fifty Dollars (\$50.00) nor more than Ten Thousand Dollars (\$10,000.00) pursuant to N.C.G.S. 143-215.6A. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit against the person found to have violated this Ordinance or the orders, rules, regulations, and permits issued hereunder.

In determining the amount of the civil penalty, the POTW Director shall consider the following:

- (i) The degree and extent of the harm to the natural resources, to the public health, to the POTW, or to public or private property resulting from the violation;
- (ii) The duration and gravity of the violation;
- (iii) The effect on ground or surface water quantity or quality or on air quality;
- (iv) The cost of rectifying the damage;
- (v) The amount of money saved by the noncompliance;
- (vi) Whether the violation was committed willfully or intentionally;
- (vii) The prior record of the violator in complying or failing to comply with the pretreatment program;
- (viii) The costs of enforcement to the City.

Appeals of civil penalties assessed in accordance with this section shall be provided in Section 4.3.4.

### 6.2 Falsifying Information:

The District Attorney for Judicial District 15A may, at the request of the City, prosecute any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Ordinance, or Wastewater Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance (N.C.G.S. 143-215.6B(i)).

### 6.3 Criminal Violations:

- 6.3.1. The District Attorney for Judicial District 15A may, at the request of the City, prosecute any person who negligently violates any term, condition, or requirement of this Ordinance and any person who negligently fails to apply for or to secure a permit required by N.C.G.S. 143-215.1 (N.C.G.S. 143-215.6B(f)).
- 6.3.2. The District Attorney for Judicial District 15A may, at the request of the City, prosecute any person who knowingly and willfully violates any term, condition, or requirement of this Ordinance and any person who knowingly and willfully fails to apply for or to secure a permit required by N.C.G.S. 143-215.1 (N.C.G.S. 143-215.6B(g)).
- 6.3.3. The District Attorney for Judicial District 15A may, at the request of the City, prosecute any person who knowingly violates any term, condition, or requirement of this Ordinance and any person who knowingly fails to apply for or to secure a permit required by N.C.G.S. 143-215.1 and knows at that time that he thereby places another person in imminent danger of death or serious bodily injury (N.C.G.S. 143-215.6B(h)).

#### 6.4 Remedies Nonexclusive:

The remedies provided for in this Ordinance are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user.

#### SECTION 7. SEVERABILITY:

If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court or competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

#### SECTION 8. CONFLICT:

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

#### SECTION 9. ATTACHMENTS: